

Notice to Comply

Application No.

09/552,272

Applicant(s)

Fung et al

Examiner

Larson

Art Unit

1635

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☐ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☒ 7. Other: SEQ.ID.NOS. are required for Figs. 12, 14A-F, 15A, 16A, & 17B, and claims 3, 5, 10, 13, & 14.

Applicant Must Provide:

- ☐ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☐ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☐ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).
- ☒ Amendment inserting required Seq.Id. Nos.

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

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1. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

Specifically, SEQ. ID. NOS. are missing for the sequences disclosed in Figures 12, 14A-F, 15A, 16A, and 17B. It is suggested that the SEQ. ID. NOS. for the sequences disclosed in these figures be inserted into the brief descriptions for these figures to avoid having to change the figures themselves. SEQ. ID. NOS. are also missing for specifically claimed sequences. Even though the sequences themselves are not specifically recited in the claims, they are recited by naming the gene and the location of the claimed sequence within the gene. Using the name of the gene combined with sequence positions in the gene or transcript is merely a short-hand equivalent to reciting the entire sequence. In order to effectively search the claimed sequences, SEQ. ID. NOS. are required. Instances of sequences claimed are found in claim 3 (5'-UTR of *cspA*, *cspB*, and *csdA*), claim 5 (+1 to +11 of *cspA* 5' UTR), claim 10 (+56 to +117 of *cspA* 5' UTR), claim 13 (*cspA*, *cspB*, and *csdA*), and claim 14 (+123 to +135 of *cspA* 5' UTR). It is noted that if specific sequences are

Art Unit: 1635

absent from the sequence list, but are subsequences of sequences that appear in the sequence list, the following format may be used to identify the sequence:

(nucleotides X to Y of SEQ. ID. NO: Z). See MPEP 2422.03.

Applicant is given ONE MONTH from the mailing date of this communication within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

2. Certain papers related to this application may be submitted to Art Unit 1635 by facsimile transmission. The FAX numbers are (703) 308-4242 and (703) 308-3014. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by the applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office.

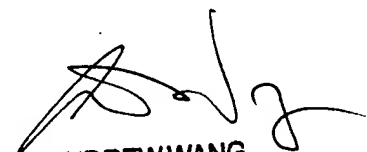
Unofficial papers, such as draft responses, may be transmitted to the examiner directly at (703) 305-7939. It is recommended that the examiner be notified when a fax is sent to this number.

Art Unit: 1635

Any inquiry concerning this communication or earlier communications should be directed to Thom Larson, whose telephone number is (703) 308-7309. The examiner normally can be reached Monday through Friday from 9:00 AM to 5:30 PM, EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader, can be reached at (703) 308-0447.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist, whose telephone number is (703) 308-0196.

Thomas G. Larson, Ph.D.
Examiner



ANDREW WANG
PRIMARY EXAMINER